



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We make Indiana a cleaner, healthier place to live.*

Joseph E. Kernan  
Governor

Lori F. Kaplan  
Commissioner

September 29, 2004

100 North Senate Avenue  
P O Box 6015  
Indianapolis, Indiana 46206-6015  
(317) 232-8603  
(800) 451-6027  
[www.IN.gov/idem](http://www.IN.gov/idem)

VIA CERTIFIED MAIL# 7000 0600 0027 2039 3472

Sue Shadley  
Plews, Shadley, Racher & Braun  
1326 N. Delaware St.  
Indianapolis, IN 46206

US EPA RECORDS CENTER REGION 5



436285

SCANNED

Re. Illiana Disposal Partnership  
Agreed Order  
Case No. 2003-12918-S

Dear Mrs. Shadley:

This is to inform you that the Agreed Order in the above-referenced case has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed.

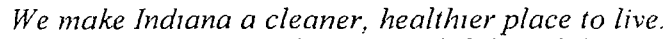
You are no doubt familiar with the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon your receipt of this correspondence. Please note that the civil penalty is due within thirty (30) days after the effective date of the Agreed Order. Payment should be made payable to the Environmental Management Special Fund and sent to Cashier, IDEM, 100 N. Senate Avenue, P.O. Box 7060, Indianapolis, Indiana 46207-7060. Please include the Case Number on the front of the check. If you have any questions, please contact me at 317/232-7201.

Sincerely,

Janet Arnold  
Solid Waste-UST Section  
Office of Enforcement

Enclosure

cc: Lake County File 2B2  
Lake County Health Department  
Lake County Solid Waste Management District  
[www.IN.gov/idem](http://www.IN.gov/idem)



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BEFORE THE INDIANA DEPARTMENT  
SS: OF ENVIRONMENTAL MANAGEMENT

CASE NO. 2003-12918-S

1. Complainant is the Commissioner (hereinafter referred to as "Complainant") of the Indiana Department of Environmental Management, a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is Illiana Disposal Partnership ("Respondent"), who owns and operates Illiana Transfer #2 located at 102 Columbus Drive, East Chicago, Lake County, Indiana ("the Site").

3 The Indiana Department of Environmental Management ("IDEM") has jurisdiction over the parties and subject matter of this action.

4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation via Certified Mail on September 22, 2003, for Case No. 2003-12839-S to:

Doug Haan  
Illiana Disposal Partnership  
Illiana Transfer #2  
865 Wheeler Street  
Crown Point, Indiana 46307

Robert Dowing  
Illiana Disposal Partnership  
Illiana Transfer #2  
865 Wheeler Street  
Crown Point, Indiana 46307

5. On March 4, 2003, an inspection was conducted at the Site by a representative of IDEM's Office of Land Quality (OLQ). The following violations were in existence or observed at the time of this inspection.

- a. Pursuant to 329 IAC 11-11-6(c) and permit #45-18, to request a change in facility plans or operation, the permittee must request that the commissioner modify the permit before any permitted changes are made in the approved plans. During the inspection noted above, IDEM observed a change in the facility operations without Respondent first requesting that the commissioner modify Illiana's permit.
- b. Pursuant to 329 IAC 11-13-4(a), and permit #45-18, solid waste must be confined to the designated storage, process, loading, and unloading areas of the processing facility. The processing facility and adjacent areas must be maintained clean and litter free. During the inspection noted above IDEM observed that Respondent did not confine solid waste to the designated storage, processing, loading, and unloading areas of the processing facility, and adjacent areas were not clean and litter free.
- c. Pursuant to 329 IAC 11-13-4(c), and permit #45-18, the solid waste processing facility must be cleaned as necessary to prevent a nuisance or public health hazard. During the inspection noted above, IDEM observed that Respondent did not clean the facility as necessary to prevent a nuisance or public health hazard.
- d. Pursuant to 329 IAC 10-4-2, no person shall cause or allow the storage, containment, processing, or disposal of solid waste in a manner which creates a threat to human health or the environment, including the creating of a fire hazard, vector attraction, air or water pollution, or other contamination. During the inspection noted above, IDEM observed Respondent contained and processed solid waste contaminated sediments/soil dredged from Lake George Canal, in a manner that posed a threat to human health and the environment at the Site.

- e. Pursuant to 329 IAC 10-4-3, open dumping and open dumps, as those terms are defined in IC13-11-2-146 and IC 13-11-2-147, are prohibited. During the inspection noted above, IDEM observed Respondent open dumped solid waste, contaminated sediments/soil dredged from Lake George Canal at the Site.
  - f. Pursuant to IC 13-30-2-1(3), a person may not deposit any contaminants upon the land in a place and manner that creates or would create a pollution hazard that violates or would violate a rule adopted by one (1) of the boards. Respondent caused and/or allowed sediments/soil dredged from Lake George Canal, a contaminant, to be deposited at the Site in violation of 329 IAC 10-4-2 and 329 IAC 10-4-3, thus violating IC 13-30-2-1(3).
  - g. Pursuant to IC 13-30-2-1(4), a person may not deposit or cause or allow the deposit of any contaminants or solid waste upon the land, except through the use of sanitary landfills, incineration, composting, garbage grinding, or another method acceptable to the solid waste management board. Respondent caused and/or allowed sediments/soil dredged from Lake George Canal, a containment or solid waste, to be deposited at the Site in violation of 329 IAC 10-4-2 and 329 IAC 10-4-3, thus violating IC 13-30-2-1(4).
  - h. Pursuant to IC 13-30-2-1(5), a person may not dump, cause or allow the open dumping of garbage or of any other solid waste in violation of rules adopted by the solid waste management board. Respondent caused and/or allowed sediments/soil dredged from Lake George Canal, a contaminant, to be open dumped at the Site 329 IAC 10-4-2 and 329 IAC 10-4-3, thus violating IC 13-30-2-1(5).
6. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.
7. Respondent had an Office of Water Quality Certification for the excavation of sediments on Lake George Canal.

## **II. ORDER**

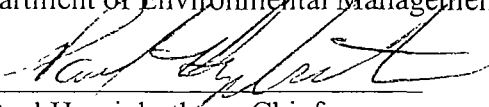
1. This Agreed Order shall be effective ("Effective Date") when it is approved by the Complainant or her delegate, and has been received by the Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall manage soil excavated from the Site as a solid waste and in compliance with the Solid Waste Facility Permit # 45-18.
3. Respondent shall confine all solid waste to the designated storage, processing, loading, and unloading areas of the processing facility. The processing facility and adjacent areas must be maintained clean and litter free in accordance with 329 IAC 11-13-4(a).

4. Respondent shall clean the processing facility as necessary to prevent a nuisance or public health hazard in accordance with 329 IAC 11-13-4(c).
5. Respondent is assessed a civil penalty of Two Thousand Seven Hundred and Fifty Dollars (\$2,750). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date of this Agreed Order.
6. The civil is payable by check to the Environmental Management Special Fund. Check shall include the Cause Number of this action and shall be mailed to:

Cashier  
IDEM  
100 North Senate Avenue  
P.O. Box 7060  
Indianapolis, Indiana 46207-7060

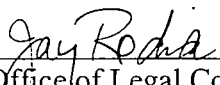
7. In the event that the civil penalty required by Order Condition 5 is not paid within thirty (30) days of the Effective Date of this Agreed Order, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1-101. The interest shall continue to accrue until the civil penalty is paid in full.
  8. This Agreed Order shall apply to and be binding upon the Respondent, it's successors and assigns. The Respondent's signatory to this Agreed Order certify that they are fully authorized to execute this document and legally bind the parties they represent. No change in ownership, corporate, or partnership status of the Respondent shall in any way alter its status or responsibilities under this Agreed Order.
  9. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if the Agreed Order did not contain the invalid terms.
  10. The Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
  11. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order.
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TECHNICAL RECOMMENDATION:  
Department of Environmental Management

By:   
Paul Higginbotham, Chief  
Solid Waste -UST Section  
Office of Enforcement

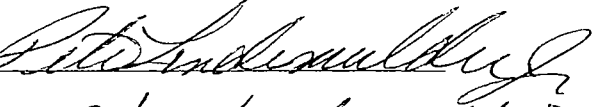
Date: 8/12/04

COUNSEL FOR COMPLAINANT:  
Department of Environmental Management

By:   
Office of Legal Counsel  
Department of Environmental Management

Date: September 21, 2004

RESPONDENT:

By:   
Printed: Peter Lindemulder, Jr.  
Title: District Manager

Date: 9-13-04

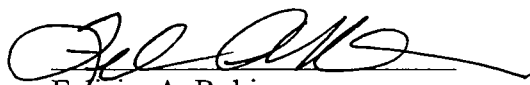
COUNSEL FOR RESPONDENT:

By: 

Date: 9/7/04

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS 27 DAY OF September, 2004.

For the Commissioner:

  
Felicia A. Robinson  
Deputy Commissioner  
Legal Affairs

bcc: Robert Lamprecht (NW Regional Office)  
Jay Rodia, OLC  
Melessia Hawkins, OLQ  
Janet Arnold, OE  
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